

REMARKS

Claims 8, 9 and 11-15 are pending.

The amendment to claim 8 is supported by Examples 3-5 in the present application.

Applicants would like to thank Examiner Morris for allowing claims 8, 9 and 11-15 presented in the Amendment filed on November 9, 2005. However, applicants' inadvertent calculation error regarding the molar ratio of tert-butyl hydroperoxide to the compound of formula B resulted in a mistake in the lower limit of the molar ratio recited in claim 8 of the Amendment filed on November 9, 2005. The current RCE and Preliminary Amendment are aimed at presenting corrected calculations of the molar ratios of tert-butyl hydroperoxide to the compound of formula B.

In the Amendment filed on November 9, 2005, applicants inadvertently indicated that Example 3 used a molar ratio of tert-butyl hydroperoxide to the compound of formula B of 1.34:1 and that the prior art, Monserrat (ES 2,063,705), used a molar ratio of tert-butyl hydroperoxide to the compound of formula B of 1.09:1.

However, upon further review, applicants have discovered that there were errors in the calculation of the molar ratios of tert-butyl hydroperoxide to the compound of formula B in the Amendment filed on November 9, 2005. The molar ratio of tert-butyl hydroperoxide to the compound of formula B used in Monserrat actually should have been 1.02:1, instead of 1.09:1, as shown below.

Example 6 of Monserrat

Tert-butyl hydroperoxide: MW = 90.1; Density = 0.93 g/ml; Volume = 2 ml; 70% solution

$$\begin{aligned}\text{Amount of tert-butyl hydroperoxide used} &= \text{Volume} \times \text{Density} \times \text{Percentage} \\ &= 2 \text{ ml} \times 0.93 \text{ g/ml} \times 0.70 \\ &= 1.3 \text{ g} \\ &= 1.3 \text{ g}/90.1 \text{ g per mole} \\ &= 14.43 \text{ mmole}\end{aligned}$$

Compound of formula B: MW = 353; Weight = 5 g

$$\begin{aligned}\text{Amount of the compound of formula B used} &= 5 \text{ g}/353 \text{ g per mole} \\ &= 14.16 \text{ mmole}\end{aligned}$$

$$\begin{aligned}\text{Molar ratio of tert-butyl hydroperoxide to the compound of formula B used} &= 14.43 \text{ mmole}/14.16 \text{ mmole} \\ &= 1.02\end{aligned}$$

Example 3 of the Present Application

Tert-butyl hydroperoxide: MW = 90.1; Density = 0.93 g/ml; Volume = 1.5 ml; 70% solution

$$\begin{aligned}\text{Amount of tert-butyl hydroperoxide used} &= \text{Volume} \times \text{Density} \times \text{Percentage} \\ &= 1.5 \text{ ml} \times 0.93 \text{ g/ml} \times 0.70 \\ &= 0.98 \text{ g} \\ &= 0.98 \text{ g}/90.1 \text{ g per mole} \\ &= 10.88 \text{ mmole}\end{aligned}$$

Compound of formula B: MW = 353; Weight = 3 g

$$\begin{aligned}\text{Amount of the compound of formula B used} &= 3 \text{ g}/353 \text{ g per mole} \\ &= 8.50 \text{ mmole}\end{aligned}$$

$$\begin{aligned}\text{Molar ratio of tert-butyl hydroperoxide to the compound of formula B used} &= 10.88 \text{ mmole}/8.50 \text{ mmole} \\ &= 1.28\end{aligned}$$

Example 4 of the Present Application

Tert-butyl hydroperoxide: MW = 90.1; Density = 0.93 g/ml; Volume = 1.5 ml; 70% solution

$$\begin{aligned}\text{Amount of tert-butyl hydroperoxide used} &= \text{Volume} \times \text{Density} \times \text{Percentage} \\ &= 1.5 \text{ ml} \times 0.93 \text{ g/ml} \times 0.70 \\ &= 0.98 \text{ g}\end{aligned}$$

$$= 0.98 \text{ g}/90.1 \text{ g per mole}$$

$$= 10.88 \text{ mmole}$$

Compound of formula B: MW = 367; Weight = 3 g

$$\text{Amount of the compound of formula B used} = 3 \text{ g}/367 \text{ g per mole}$$

$$= 8.17 \text{ mmole}$$

Molar ratio of tert-butyl hydroperoxide to the compound of formula B used

$$= 10.88 \text{ mmole}/8.17 \text{ mmole}$$

$$= 1.33$$

Example 5 of the Present Application

Tert-butyl hydroperoxide: MW = 90.1; Density = 0.93 g/ml; Volume = 1.5 ml; 70% solution

$$\text{Amount of tert-butyl hydroperoxide used} = \text{Volume} \times \text{Density} \times \text{Percentage}$$

$$= 1.5 \text{ ml} \times 0.93 \text{ g/ml} \times 0.70$$

$$= 0.98 \text{ g}$$

$$= 0.98 \text{ g}/90.1 \text{ g per mole}$$

$$= 10.88 \text{ mmole}$$

Compound of formula B: MW = 343; Weight = 3 g

$$\text{Amount of the compound of formula B used} = 3 \text{ g}/343 \text{ g per mole}$$

$$= 8.75 \text{ mmole}$$

Molar ratio of tert-butyl hydroperoxide to the compound of formula B used

$$= 10.88 \text{ mmole}/8.75 \text{ mmole}$$

$$= 1.24$$

Thus, Examples 3-5 of the present application exemplified the molar ratio of tert-butyl hydroperoxide to the compound of formula B of 1.28, 1.33 and 1.24.

Therefore, there is support for amending the allowed claim 8 by replacing "1.34:1" with "1.24:1".

When claim 8 recited "1.34:1" in the Amendment filed on November 8, 2005, the Amendment argued that claim 8 would have been patentable over Monserrat because Monserrat uses a molar ratio of tert-butyl hydroperoxide to the compound of formula B of 1.09:1. As explained above, the correct molar ratio of tert-butyl hydroperoxide to the compound of formula B used in Monserrat should have been 1.02:1, instead of 1.09:1. Applicants submit that claim 8 as amended in the present Preliminary Amendment should also be patentable over Monserrat.

CONCLUSION

The Examiner is urged to contact the undersigned by phone if there is any issue that can be resolved with a telephone interview.

In the event that the filing of this Preliminary Amendment is deemed not timely, applicants petition for an appropriate extension of time. The petition fee, and any other fees that may be required in relation to this paper, can be charged to Deposit Account No. 11-0600.

Respectfully submitted,

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